vss

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3410 OF 2006

Nashik Jilha Mahila Vikas Sahakari Bank Ltd. ... Petitioner

V/s.

Ashok Balwant Rahude ... Respondent

Mr.A.V. Bukhari with B.V. Bukhari for Petitioner
Ms.P.P. Tendulkar for Respondent

CORAM: **SMT.NISHITA MHATRE, J.**

DATED: **AUGUST 22, 2007**

P.C.:

. The Labour Court in Application (BIR) No.1 of 1994 has held that the enquiry conducted against the Respondent workman was not fair and proper since the Enquiry Officer had not permitted the workman to cross-examine three witnesses. It was also found that the change of venue of the enquiry was not right and therefore, the enquiry was held to be invalid as the principles of natural justice were not followed. The appeal Court in Appeal (BIR) No.10 of 2004 has taken the same view.

2. There is no dispute that two witnesses i.e., the complainant and one Dilip Vasantrao Ahute were cross-examined by the respondent workman. The Enquiry Officer it appears has considered their evidence besides

the evidence of witnesses who have not been cross examined. In my opinion, the interests of justice would be met with the following order:

i) The impugned order of the Labour Court is set aside and it is held that procedurally the enquiry has been held in a fair and proper manner.

ii) The Labour Court is directed to consider the perversity of the findings of the enquiry officer by referring to his discussion of the evidence of the two witnesses who were cross-examined by the respondent workmen i.e., the complainant Vandana Shivaji Toravane and the management witness No.2 Dilip Vasantrao Ahute who were examined at Nasik.

iii) The Labour Court will not consider any reference made by enquiry officer to the evidence of the other witnesses who were examined at the enquiry for holding that the charges are proved while deciding whether the findings of the enquiry officer are perverse.

3. Petition is disposed of accordingly.